

Statement of Objects and Reasons

This Bill is introduced in pursuance of the provisions of Article 206 (i) of the Constitution of India to provide in advance for the appropriation out of the Consolidated Fund of the State of moneys required towards defraying the several charges which will come in course of payment during a part of the financial year 1983-84 pending the completion of the procedure prescribed in Article 203 and Act 204 of this constitution.

RAMAKRISHNA HEGDE,
Chief Minister.

K. S. SINGRI GOWDA,
Secretary.

ANNEXURE

THE KARNATAKA LOKAYUKTA BILL, 1983

(L. A. Bill No. 8 of 1983)

A Bill to make provision for the appointment and functions of the Lokayukta and Upalokayukta for the investigation of administrative action taken by or on behalf of the Government of Karnataka or certain public authorities in the State of Karnataka and for matters connected therewith.

Whereas it is expedient to make provision for the appointment and functions of the Lokayukta and Upalokayukta for the investigation of administrative action taken by or on behalf of the Government of Karnataka or certain public authorities in the State of Karnataka and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in Thirty-fourth Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the Karnataka Lokayukta Act, 1983.

(2) It shall come into force on such date as the State Government may, by notification appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) “action” means administrative action taken by way of decision, recommendation or finding or in any other manner and includes wilful failure or omission to act, and all other expressions connecting such action shall be construed accordingly;

(2) “allegation” in relation to a public servant means any affirmation that such public servant,—

(a) has abused his position as such public servant to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;

(b) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;

(c) is guilty of corruption, favouritism, nepotism or lack of integrity in his capacity as such public servant; or

(d) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servants of the class to which he belongs.

(1) "Chief Minister" means the Chief Minister of Karnataka;

(4) "competent authority" in relation to a public servant, means,—

(a) in the case of a Chief Minister or a member of the State Legislature, the Governor acting in his discretion;

(b) in the case of a Minister or Secretary, the Chief Minister;

(c) in the case of a Government servant other than a Secretary, the Government of Karnataka;

(d) in the case of any other public servant, such authority as may be prescribed;

(5) "corruption" includes anything made punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947;

(6) "Government servant" means a person who is a member of the Civil Services of the State of Karnataka or who holds a civil post or is serving in connection with the affairs of the State of Karnataka and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or any person, whether incorporated or not, and also any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Karnataka;

(7) "Governor" means the Governor of Karnataka;

(8) "grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of mal-administration;

(9) "Lokayukta" means the person appointed as the Loka'yukta under section 3;

(10) "mal-administration" means action taken or purporting to have been taken in the exercise of administrative functions in any case where,—

(a) such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or

(b) there has been wilful negligence or undue delay in taking such action or the administrative procedure or practice governing such action, involves undue delay;

(11) "Minister" means a member of the Council of Ministers for the State of Karnataka, but excluding the Chief Minister;

(12) "public servant" means a person who is or was at any time,—

- (a) the Chief Minister ;
- (b) a Minister ;
- (c) a member of the State Legislature ;
- (d) a Government servant ;
- (e) the Chairman, and the Vice-Chairman (by whatever name called) of a local authority in the State of Karnataka or a statutory body or corporation established by or under any law of the State Legislature, including a co-operative society, or a Government Company within the meaning of section 617 of the Companies Act and such other Corporations or Boards as the State Government may, having regard to its financial interest in such Corporations or Boards, by notification, from time to time specify;
- (f) a person in the service or pay of,—
- (i) a local authority in the State of Karnataka ;
- (ii) a statutory body or a corporation (not being a local authority) established by or under a State or Central Act, owned or controlled by the State Government and any other Board or Corporation as the State Government may, having regard to its financial interest therein, by notification, from time to time specify;
- (iii) a company registered under the Companies Act, 1956, in which not less than fifty one per cent of the paid up share capital is held by the State Government, or any Company which is a subsidiary of such Company ;
- (iv) a society registered or deemed to have been registered under the Karnataka Societies Registration Act, 1960, which is subject to the Control of the State Government and which is notified in this behalf in the official Gazette ;
- (v) a co-operative society ;
- (vi) a university ;

Explanation.—In this clause, “co-operative society” means a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959, and “university” means a university established or deemed to be established by or under any law of the State Legislature.

(13) “Secretary” means a Secretary to the Government of Karnataka and includes a Special Secretary: an Additional Secretary and a joint Secretary;

(14) “Upalokayukta” means a person appointed as Upalokayukta under section 3.

3. Appointment of Lokayukta and Upalokayukta.—(1) For the purpose of conducting investigation and enquiries in accordance with the provisions of this Act, the Governor shall appoint a person to be known as the Lokayukta and one or more persons to be known as the Upalokayukta or Upalokayuktas.

(2) (a) A person to be appointed as the Lokayukta be a person who has held the Office of a Judge of the Supreme Court or that of the Chief Justice of a High Court and shall be appointed on the

advice tendered by the Chief Minister in consultation with the Leader of the Opposition in the Legislative Assembly of the State.

(b) A person to be appointed as an Upalokayukta shall be a person who has held the office of a Judge of a High Court and shall be appointed on the advice of the Chief Minister.

(3) A person appointed as the Lokayukta or an Upalokayukta shall, before entering upon his office, make and subscribe, before the Governor, or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the first Schedule.

4. Lokayukta or Upalokayukta not to hold any other office—The Lokayukta or Upalokayukta shall not be a member of the Parliament or be a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Lokayukta or Upalokayukta) or be connected with any political party or carry on any business, or practice any profession and accordingly before he enters upon his office, a person appointed as the Lokayukta or an Upalokayukta shall —

(a) if he is a member of the Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party sever his connection with it; or

(d) if he is carrying on any business sever his connection (short of divesting himself of ownerships) with the conduct and management of such business; or

(e) if he is practising any profession, suspend practice of such profession.

5. Term of office and other conditions of service of Lokayukta and Upalokayukta.—(1) A person appointed as the Lokayukta or Upalokayukta shall hold office for a term of five years from the date on which he enters upon his office :

Provided that,—

(a) the Lokayukta or an Upalokayukta may, by writing under his hand addressed to the Governor, resign his office;

(b) the Lokayukta or an Upalokayukta may be removed from office in the manner provided in section 6-

(2) On ceasing to hold office, the Lokayukta or an Upalokayukta shall be ineligible for further employment to any office of profit under the Government of Karnataka or in any authority, corporation, company, society or university referred to in item (f) of clause (12) of section 2.

(3) There shall be paid to the Lokayukta and the Upalokayukta every month a salary of five thousand rupees and four thousand rupees respectively;

Provided that, if the Lokayukta or an Upalokayukta at the time of his appointment is in receipt of pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the Lokayukta or, as the case may be, an Upalokayukta shall be reduced—

(a) by the amount of that pension;

(b) if he has before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

(4) The allowance payable to, and other conditions of service of the Lokayukta or an Upalokayukta shall be such as may be prescribed:

Provided that.—

(a) in prescribing the allowance and pension payable to and other conditions of service of the Lokayukta, regard shall be had to the allowance and pension payable to and other conditions of service of the Chief Justice of the Supreme Court;

(b) in prescribing the allowances, and pension payable to and other conditions of service of the Upalokayukta regard shall be had to the allowances and pension payable to and other conditions of service of a Judge of the High Court;

Provided further that the allowances, payable to and other conditions of service of the Lokayukta or Upalokayukta shall not be varied to his disadvantage after his appointment.

(5) The administrative expense of the office of the *Lokayukta* and on *Upalokayukta including all salaries allowances and pensions payable to or in respect of persons serving in that office*. shall be charged on the Consolidated Fund of the State.

9. **Removal of Lokayukta or Upalokayukta.**—(1) The Lokayukta or an Upalokayukta shall not be removed from his office except by an order of the Governor passed after an address by each House of the State Legislature supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the Governor in the same session for such removal on the ground as proved misbehaviour or incapacity.

(2) The procedure of the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the Lokayukta or an Upalokayukta under sub-section (1) shall be as provided in the Judge (Inquiry) Act, 1968 in relation to the removal

of a Judge and accordingly the provisions of that Act shall mutatis mutandis apply in relation to the removal of the Lokayukta and Upalokayukta and as they apply in relation to the removal of a Judge.

7. Matters which may be investigated by the Lokayukta and an Upalokayukta. (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by or with the general or specific approval of,—

- (i) the Chief Minister;
- (ii) a Minister or a Secretary;
- (iii) a member of the State Legislature; or

(iv) any other public servants being a public servant of a class notified by the State Government in consultation with the Lokayukta in this behalf;

in any case where a complaint involving a grievance or an allegation is made in respect of such action or where such action can be or could have been in the opinion of the Lokayukta, the subject of a grievance or an allegation.

(2) Subject to the provisions of this Act, an Upalokayuktha may investigate any action which is taken by or with the general or specific approval of any public servant not being the Chief Minister, Minister, Member of the Legislature, Secretary or other public servant referred to in sub section (1), in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upalokayuktha, the subject of a grievance or an allegation.

(3) Where two or more Upalokayuktas are appointed under this Act, the Government may, by General or special order, assign to each of them matters which may be investigated by them under this Act.

Provided that no investigation made by an Upalokayukta under this Act and no action taken or things done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

8. Matters not subject to investigation.— (1) Except as hereinafter provided, the Lokayukta or the Upalokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action.—

(a) if such action relates to any matter specified in the Second Schedule; or.

(b) if the complainant has or had, any remedy by way of appeal, revision, review or other proceedings before any tribunal court or other authority.

(2) The Lokayukta or an Upalokayukta shall not investigate.—

(a) any action in respect of which formal and public inquiry has been ordered with the prior concurrence of the Lokayukta or an Upalokayukta as the case may be;

(b) any action in respect of a matter which has been referred for inquiry, under the Commissions of Inquiry Act, 1952 with the prior concurrence of the Lokayukta or an Upalokayukta as the case may be :

(c) any complaint involving a grievance made after the expiry of a period of Six months from the date on which the action complained against becomes known to the complainant or

(d) any complaint involving an allegation mad after the expiry of one year from the date on which the action complained against is alleged to have taken place.

Provided that he may entertain a complaint referred to in clause (c) and (d) if the complainant satisfies that he had sufficient cause for not making the complaint within the period specified in those clauses.

(3) In the case of any complaint involving a grievance, nothing in this Act shall be construed as empowering the Lokayukta or an Upalokayukta to question any administrative action involving the exercise of a discretion except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can prima facie be regarded as having been improperly exercised.

9. Provisions relating to complaints and investigation.—(1) Subject to the provisions of this Act, any person may make a complaint under this Act, to the Lokayukta or an Upalokayukta.

(2) Every complaint shall be made in the form of a statement supported by an affidavit and in such form and in such manner as may be prescribed.

(3) Where the Lokayukta or an Upalokayukta proposes after making such preliminary inquiry as he deemed fit to conduct any investigation under this Act, he—

(a) shall forward a copy of the complaint to the public servant and the competent to the public authority concerned.

(b) shall afford to such public servant an opportunity to offer his comments on such complaint.

(c) may make such orders as to the safe custody of documents relevant to the investigation as he deems fit.

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such Public or Private as the Lokayukta or the Upalokayukta considers appropriate in the circumstances of the case.

(5) The Lokayukta or the Upalokayukta may in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if in his opinion—

(a) The complaint is frivolous or not made in good faith;

(b) There are no sufficient grounds for investigating or, as the case may be, for continuing the investigation or

(c) Other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

6 In any case where the Lokayukta or an Upalokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

7. The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

10. Issue of Search warrant, etc, (1)-- Where in consequence of information in his possession, the Lokayukta or an Upalokayukta—

(a) has reason to believe that any person—

(i) to whom a summons or notice under this Act has been or might be issued, will not or would not produce or cause to be produced any property, document or thing which will be necessary or useful for, or relevant to any inquiry or other proceeding to be conducted by him.

(ii) is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities for the purpose of any law or rules in force which requires such disclosure to be made or

(b) considers that the purposes of any inquiry or other proceeding to be conducted by him will be served by a general search or inspection.

he may by a search warrant authorise any Police officer not below the rank of an Inspector of Police to.—

(i) enter and search any building or place where he has reason to suspect that such property, documents, money, bullion, jewellery or other valuable article or thing is kept.

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i) where the keys thereof are not available.

(iii) seize any such property, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iv) place marks of identification on any property or documents or make or cause to be made extracts or copies therefrom; or

(v) make a note or an inventory of any such property, documents, money, bullion, jewellery or other valuable article or thing.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply, so far as may be, to searches and seizures under sub-section (1).

(3) A warrant issued under sub-section (1) shall, for all purposes be deemed to be a warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973.

11 Evidence.—(1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act Lokayukta or an Upalokayukta may require any public servant or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry) the Lokayukta or an Upalokayukta shall have all the powers of civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely.—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witness or documents;
- (f) such other matters as may be prescribed.

(3) any proceeding before the Lokayukta or an Upalokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document.—

(a) as might prejudice the affairs of the State of Karnataka or the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation);

(b) as might involve the disclosure of proceedings of the Cabinet of the State Government, of any Committee, of that Cabinet, and for the purpose of this sub-section on a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(5) For the purpose of investigation under this Act no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a court.

12. Reports of Lokayukta etc.—(1) If, after investigation of any action in respect of which a complaint involving a grievance has been made, the Lokayukta or an Upalokayukta is satisfied that such action has resulted in injustice or undue hardship to the complaint

or to any other person, the Lokayukta or an Upalokayukta shall by a report in writing, recommend to the competent authority concerned that such injustice or hardship shall be intimated to the Lokayukta or an Upalokayukta the time as may be specified in the report.

(2) The competent authority to whom a report is sent under sub-section (1) shall, within one month of the expiry of the period specified in the report, intimate or cause to be intimated to the Lokayukta or an Upalokayukta the action taken on the report.

(3) If, after investigation any action in respect of which a complaint involving an allegation has been made, the Lokayukta or an Upalokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall by report in writing communicate his finding and recommendations along with the relevant documents, materials and other evidence to the competent authority,

(4) The competent authority shall examine the report forwarded to it under sub-section (3) and within three months of the date of receipt of the report, intimate or cause to be intimated to the Lokayukta or an Upalokayukta the action taken or proposed to be taken on the basis of the report.

(5) If the Lokayukta or an Upalokayukta is satisfied with the action taken or proposed to be taken on his recommendations or finding referred to in sub-section (1) and (3), he shall close the case under information to the complaint, the public servant and the competent authority concerned, but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the competent authority concerned and the complaint.

(6) The Lokayukta or the Upalokayukta shall present annually a consolidated report on the performance of his functions under this Act to the Governor.

(7) On receipt of a special report under sub-section (5), or the annual report under sub-section (6), the Governor shall cause a copy thereof together with explanatory memorandum to be laid before each House of the State Legislature.

(8) Subject to the provisions of sub-section (4) of section 9, the Lokayukta or an Upalokayukta may at his discretion may available, from time to time, the substance of cases closed or otherwise disposed of by him which may appear to him to be of general, public academic or professional interest in such manner and to such persons as he may deem appropriate.

13. Public servant to vacate office if directed by Lokayukta etc.

(1) Where after investigation into a complaint the Lokayukta or an Upalokayukta is satisfied that the complaint involving an allegation against the public servant can be substantiated, and that public servant concerned should not continue to hold post held by him, the Lokayukta or an Upalokayukta shall make a declaration to that effect in his report under sub-section (3) of section 12. The compe-

tent authority may, either accept the declaration or reject it. If it is not rejected within a period of three months from the date of receipt of the report under said sub-section (3) it shall be deemed to have been accepted by the competent authority on the expiry of the said period of three months.

(2) If the declaration so made is accepted or is deemed to have been accepted by the competent authority, the fact of such acceptance or the deemed acceptance shall be intimated to the public servant by the competent authority and then notwithstanding anything contained in any law, order, notification, rule or contract of appointment, the public servant concerned shall, with effect from the date of such intimation,—

(i) if the Chief Minister or a Minister or a member of the State Legislature, resign his office of Chief Minister, Minister or Member of the State Legislature, as the case may be;

(ii) if any other non-official, be deemed to have been vacated his office; and

(iii) if an official, be deemed to have been placed under suspension by an order of the appointing authority.

Provided that if the official is a member of an All India Service as defined in section 2 of the All India Services Act, 1951 (Central Act 61 of 1951) the State Government shall take action to keep him under suspension in accordance with the rules or regulations applicable to his service.

14. Initiation of prosecution.—If after investigation into any complaint the Lokayukta or an Upalokayukta is satisfied the public servant has committed any criminal offence and that he should be prosecuted in a court of law for such offence, then, he may pass an order to that effect and initiate prosecution of the public servant concerned and if prior sanction of any authority required for such prosecution, then, notwithstanding anything contained in any law, such sanction shall be deemed to have been granted by the appropriate authority on the date of such order.

15. Staff of Lokayukta etc.—(1) (a) The Lokayukta shall have such officers and employees as may be prescribed to assist the Lokayukta in the discharge of his functions under this Act.

(b) The Upalokayukta or Upalokoyuktas also shall have such officers and employees as may be prescribed to assist them in the discharge of their duties.

(2) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lokayukta or an Upalokayukta, or Upalokayuktas as the case may be.

(3) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Upalokayukta may for the purpose of conducting investigations under this Act utilise the services of —

any officer or investigating agency of the State Government or the Central Government with the concurrence of that Government; or
 (b) any other agency.

16. Secrecy of information.—(1) Any information, obtained by the Lokayukta or an Upalokayukta or members of his staff in the course of or for the purpose of, any investigation under this Act and any evidence recorded or collected in connection with such information, shall, subject to the provisions of section 9, be treated as confidential and no court shall be entitled to compel the Lokayukta or the Upalokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars referred to therein,—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on such report;

(b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923, or an offence of giving or fabricating false evidence under the Indian Penal Code or for purposes of trial of any offence under section 17; or

(c) for such other purposes as may be prescribed.

17. Intentional insult or interruption to or bringing into disrepute the Lokayukta or Upalokayukta.—(1) Whoever intentionally insults or causes any interruption to the Lokayukta or Upalokayukta while the Lokayukta or Upalokayukta is conducting any investigation or inquiry under this Act shall, on conviction, be punished with simple imprisonment for a term which shall not be less than six months but may extend to one year or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or an Upalokayukta into disrepute, shall, on conviction, be punished with simple imprisonment for a term which shall not be less than six months but may extend to one year or with fine, or with both.

(3) The provisions of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokayukta or the concerned Upalokayukta.

18. Protection.—(1) No suit, prosecution, or other legal proceedings shall lie against the Lokayukta or an Upalokayukta or against any officer, employee, agency or person referred to in section 15 in respect of anything which is in good faith done while acting or purporting to act in the discharge of his official duty under this Act.

(2) No proceedings of the Lokayukta or an Upalokayukta shall be held to be bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or an

Upalokayukta shall be liable to be challenged, reviewed, quashed or called in question in any court.

19. Conferment of additional functions on Upalokayukta.—(1) The Government may, by order, in writing and after consultation with the Upalokayukta, confer on the Upalokayukta powers to hold, in such manner as may be prescribed, enquiries against Government servants and persons referred to in item (f) of clause (12) of section 2 disciplinary or other proceedings commenced in furtherance or recommendations of the Upalokayukta or otherwise.

(2) Where powers are conferred on Upalokayukta under sub-section (1) such Upalokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on the complaint involving a grievance or an allegation, as the case may be, and the provisions of this Act shall apply accordingly.

23. Prosecution for false complaint.—Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

(2) No court, except a court of Metropolitan Magistrate or Judicial Magistrate, First Class shall take cognizance of an offence under sub-section (1).

(3) The prosecution in relation to an offence under sub-section (1) shall be conducted by the Public Prosecutor and all expenses connected with such prosecution shall be borne by State Government.

21. Power to delegate.—The Upalokayukta may, subject to such rules as may be prescribed, by general or special order, in writing, direct that the functions conferred by section 19 may also be exercised or discharged by such of the officers, employees or agencies referred to in section 15 as may be specified in the order.

22. Public servants to submit property statement.

(1) Every public servant referred to in sub-section (1) of section 7, other than a Secretary shall within three months after the commencement of this Act, and thereafter before the 30th June of every year submit to the Lokayukta in the prescribed form a statement of his assets and liabilities and that of the members of his family.

(2) If no such statement is received by the Lokayukta from any such public servant within the time specified in sub-section (1), the Lokayukta shall make a report to that effect to the competent authority and send a copy of the report to the public servant concerned. If within two months of such report the public servant concerned does not submit the statement of his assets and liabilities he shall publish or cause to be published the names of such public servants in three news papers having wide publication in the State.

Note—In this section “family of a public servant” means the spouse and dependent children and parents of the public servant.

28. Power to make rules.—(1) The State Government may, by notification in the Official Gazette make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,—

(a) the authorities to be prescribed under sub-clause (d) of clause (4) of section 2,

(b) the allowances and pension payable to and other conditions of service of the Lokayukta and an Upalokayukta,

(c) the form and manner in which the complaint may be made,

(d) the powers of a civil court which may be exercised by the Lokayukta or an Upalokayukta clause (f) of sub-section (2) of section 11,

(e) the salary, allowances, recruitment and other conditions of service under sub-section (2) of section 15,

(f) enquiries against Government servants under section 19,

(g) any other matter for which rules have to be made or necessary under this Act,

(3) Every rule made under this Act, and every order issued under sections 21 and 25 shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or order or both Houses agree that the rule or notification should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that, any such modification or annulment, shall be without prejudice to the validity of anything previously done under that rule or order,

24. Removal of doubts.—(1) For the removal of doubts it is hereby declared that nothing in the Act, shall be construed as authorising the Lokayukta or an Upalokayukta to investigate any action is taken by or with the approval of.—

(a) any Judge as defined in section 19 of the Indian Penal Code,

(b) any officer or servant of any civil or criminal court in India,

(c) the Accountant General for Karnataka,

(d) the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in Article 324 of the Constitution and the Chief Electrical Officer, Karnataka State,

(e) the Speaker of the Karnataka Legislative Assembly or the Chairman of the Karnataka Legislative Council, and

(f) the Chairman or a member of the Karnataka Public Service Commission.

(2) The provisions of this Act, shall be in addition to the provisions of any other enactment or any rule or law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act, in respect of any action and nothing in this Act, shall limit or affect the right of such person to avail of such remedy.

25 Removal of difficulties.—Notwithstanding anything contained in this Act, the Governor, may, by order make such provision as he may consider necessary or expedient.—

(i) for bringing the provisions of this Act, into effective operation,

(ii) for containing the enquiries and investigations against Government servants and persons referred to in item (f) of clause (12) of section 2 pending before the Government or any other authority including the Karnataka State Vigilance Commission, by the Lokayukta or an Upalokayukta.

26. Repeal and savings.—(1) The Karnataka State Vigilance Commission Rules, 1980 and the Karnataka Public Authority (Disciplinary Proceedings against Employees) Act, 1982 (Karnataka Act, 31 of 1982) are hereby repealed.

(2) Notwithstanding such repeal any act or thing done under the said rules or Act shall be deemed to have been done under this Act and may be continued and completed under the corresponding provisions of this Act.

(3) All enquiries and investigations and other disciplinary proceedings pending before the Karnataka State Vigilance Commission constituted under the Karnataka State Vigilance Commission Rules, 1980 and which have not been disposed of shall stand transferred to and continued by the Upalokayukta as if they were commenced before him under this Act.

(4) Notwithstanding anything contained in this Act, initially the staff of the Lokayukta shall consist of the posts of the Secretary and other Officers and employees of the Karnataka State Vigilance Commission constituted under the Karnataka State Vigilance Commission Rules, 1980 immediately before the commencement of this Act, and appointments to the said posts are hereby made by the transfer of the Secretary and other officers and employees of the State Vigilance Commission holding corresponding posts. The salaries, allowances and other terms and conditions of services of the said Secretary, officers and other employees shall, until they are varied, be the same as to which they were entitled to immediately before the commencement of this Act.

FIRST SCHEDULE

[See section 3 (3)]

I.....having been appointed as Loka-yukta/Upalokayukta do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by Law established and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will.

SECOND SCHEDULE

[See section 8 (i) (a)]

(a) Action taken for the purpose of investigating crimes relating to the security of the State.

(b) Action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not.

(c) Action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers, except where the complainant alleges harassment or gross delay in meeting contractual obligations.

(d) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.

(e) Grant of honours and awards.

STATEMENT OF OBJECTS AND REASONS

The Administrative Reforms Commission had recommended the setting up of the institution of Lokayukta for the purpose of improving the standards of public administration, by looking into complaints against administrative actions, including cases of corruption, favouritism and official indiscipline in administration machinery.

One of the election promises in the election manifesto of the Janatha Party was the setting up of the institution of the Lokayukta.

The Bill provides for the appointment of a Lokayukta and one or more Upalokayuktas to investigate and report on allegations or grievances relating to the conduct of public servants.

The public servants who are covered by the Act include,—

- (1) Chief Minister ;
- (2) all other Minister and members of the State Legislature ;
- (3) all officers of the State Government ;
- (4) Chairmen, Vice-Chairmen of Local Authorities, Statutory Bodies, or Corporations established by or under any law of the State Legislature, including Co-operative Societies ;

(5) Persons in the service of Local Authorities, Corporations, owned or controlled by the State Government, a company in which not less than fifty-one per cent of the shares are held by the State Government, Societies registered under the Societies Registration Act, Co-operative Societies and Universities established by or under any law of the State Legislature.

Where, after investigation into a complaint, the Lokayukta considers that the allegation against a public servant is *prima facie* true and makes a declaration that the post held by him, and the declaration is accepted by the Competent Authority, the public servant concerned, if he is a Chief Minister or any other Minister or Member of State Legislature shall resign his office and if he is any other non-official shall be deemed to have vacated his office, and, if an official, shall be deemed to have been kept under suspension, with effect from the date of the acceptance of the declaration.

If after investigation, the Lokayukta is satisfied that the public servant has committed any criminal offence, he may initiate prosecution without reference to any other authority. Any prior sanction required under any law for such prosecution shall be deemed to have been granted.

The Vigilance Commission is abolished. But all inquiries and investigation and other disciplinary proceedings pending before the Vigilance Commission will get transferred to the Lokayukta.

There are other incidental and consequential provisions. Hence this Bill.

FINANCIAL MEMORANDUM

Clause 3 (1) of the Bill provides for appointment of one Lokayukta and one or more Upalokayuktas.

Clause 5 (3) of the Bill provides for payment of a salary of Rs. 5,000 p.m. to the Lokayukta and Rs. 4,000 p.m. to the Upalokayukta, less the amount of pension, if any, drawn by them.

Clause 5 (4) of the Bill envisages that the allowances payable to and other conditions of service of Lokayukta and Upalokayukta shall be such as may be prescribed and in prescribing the same regard shall be had to the allowances and pension payable to and other conditions of service of Chief Justice of the Supreme Court and a Judge of the High Court respectively.

Clause 15 of the Bill provides that the Lokayukta and Upalokayukta shall have such officers and employees as may be prescribed to assist them in the discharge of their functions or duties. The categories, recruitment and conditions of service of the officers and employees shall be such as may be prescribed in consultation with the Lokayukta or the Upalokayuktas as the case may be.

It is not possible to give precise details of the expenditure involved on the Lokayukta, Upalokayuktas and the staff. The existing machinery, viz., the Karnataka State Vigilance Commission, constituted under the Karnataka State Vigilance Commission Rules, 1980, consists of a Vigilance Commissioner appointed from among the sitting Judges of the High Court of Karnataka and other staff. The budget estimates for the year 1983-84 on salary and allowances of officers and staff of the Commission estimate a total expenditure of Rs. 61,57,300 for the year. This may be a rough estimate of the expenditure involved in a full year although there may be marginal increase on account of appointing Lokayukta and Upalokayuktas.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23.—This clause empowers the State Government to make rules to carry out purposes of the Act.

The delegation of proposed Legislative power is of a normal character.

RAMAKRISHNA HEGDE,
Chief Minister.

K. S. SINGRI GOWDA,
Secretary.